



June 30, 1999

Paul Norman
[Bonneville Power Administration](#)
PO Box 12999
Portland, OR 97232

SUBJECT: "[Subscription Power Sales and Standards for Service](#)"

Dear Mr. Norman:

The Energy Division of the Department of Community, Trade and Economic Development welcomes the opportunity to comment on BPA's proposed changes in its Standards of Service for the purchase of federal power.

Our position is that this is not an opportune time to change BPA's historic standards but that a change to them must be part of a comprehensive rethinking of preference in time for BPA's next round of contract negotiations for the period 2006-2011.

As BPA states in its "Notice of draft policy proposal" (p 10), things have changed since its standards were first developed. Wholesale markets have indeed developed and Montana has restructured its electricity industry. However, BPA's organic statutes have not changed and even though the administration and many members of Congress want to pass a national restructuring bill, Bonneville is obligated to follow existing law and not law that is likely to pass in the future. We understand and appreciate that the situation in Montana creates difficulties and Bonneville's commitment to sell power to tribal governments requires some consideration of the usefulness of BPA's traditional standards for service. However, with rate case ex parte begun, a rate proposal imminent and a subscription strategy, including an expectation of how much power will be sold to various customer groups, adopted, it is simply too late to change eligibility standards for preference power on a generic basis for the rate period, 2001-2006.

Our concern is that a change to the generic standards would create more uncertainty than less about what entities are eligible to buy power from BPA. If, for example, Bonneville adopted a standard based on state legislation, such action might encourage interests in Washington and Oregon that wanted to take advantage of the change to go to the their legislatures in 2000 asking them to pass enabling legislation. If such legislation passed it might lead to a rush of new public aggregators, who like Montana, more or less fit whatever standards BPA has published, leading to enormous confusion about who is eligible just at the time that BPA has finished its rate case and is negotiating with customers. Since BPA has already allocated its entire firm inventory, any change in eligibility would mean a revision of allocations in the middle of contract negotiations. There are enough outstanding subscription and rate case issues that need to be resolved in the next few months -- the details of the CRAC, details of transmission surcharge, allocation of power to the IOUs on behalf of residential and small farm customers-- without encouraging more confusion next year.

As I said at public meeting in Portland, BPA should find a path to sell power to Montana residential and small farm customers under the framework established in the Subscription Strategy. The " Montana Subscription Principles," recently circulated by BPA, accomplish that end and that is the kind of framework that should be used.

With regard to Indian Tribes, we recognize the desirability of BPA entering into full partnership with tribal governments by selling power to them in a manner analogous to power sales to other units of governments. However, the distinctiveness of the legal status of tribes creates risks to all of other governmental units if generic standards are modified to suit the tribes. I t appears to us to be far better to use the distinctive legal status of Tribes to fashion an approach tailored to their specific needs without changing the rules for everyone else.

Rather than making any changes to its standards now, BPA should initiate a region wide conversation on how to redefine preference in the context of state and national restructuring legislation and practice. This consultation should commence after all contracts are signed for the 2001-2006 period and be completed, with recommendations to Congress and state legislatures, if necessary, in sufficient time for any new system to be in place well before the start of contract negotiations for 2006-2011. Thus, the timetable might look something like this:

2001-2002	Region-wide Consultation
2003-2004	Federal and state legislation, if needed
2004	New eligibility standards promulgated in light of legislation or its absence

BPA should be commended for recognizing that its current standards for service are becoming incongruent with the realities of the electricity industry in parts of the region and that the statutes under which its operates are being stretched almost to the breaking point. However, there is little to be gained by making minor changes in standards now when the entire issued needs to be addressed comprehensively in a timely and deliberative fashion.

Sincerely,

Howard Schwartz
Senior Energy Policy Specialist

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